

B. N. Beard Company and International Union of Operating Engineers, Local Union No. 478, AFL-CIO and Charles Steeves and Teamsters Local Union No. 677, a/w International Brotherhood of Teamsters, Chauffeurs, Warehousemen & Helpers of America. Cases 1-CA-11491, 1-CA-13016, 1-CA-13017, and 1-CA-13018

June 25, 1982

SUPPLEMENTAL DECISION AND ORDER

BY MEMBERS FANNING, JENKINS, AND
ZIMMERMAN

On March 10, 1980, the National Labor Relations Board issued a Decision and Order in the above-entitled proceeding¹ and, on March 18, 1980, a correction thereto, in which the Board, *inter alia*, directed the Respondent to make whole certain employees for losses resulting from the Respondent's unfair labor practices in violation of Section 8(a)(1), (3), and (5) of the National Labor Relations Act, as amended. Thereafter, on January 21, 1981, and April 3, 1981, respectively, the Respondent and the General Counsel entered into a compliance stipulation in which the Respondent conceded that the Board's Order of March 10, 1980, is valid and proper in all respects. A controversy arose over the backpay required under the terms of the Board's Order, and the Regional Director for Region 1, on June 30, 1981, issued a backpay specification and notice of hearing alleging the backpay due. The backpay specification also informed the Respondent of its obligation to file an answer pursuant to Section 102.54 of the Board's Rules and Regulations, Series 8, as amended, and the consequences of failure to file.

The Respondent did not file an answer, and the Regional Office informed the Respondent's attorney of the failure to file in a letter dated December 15, 1981, which allowed an extension of time for filing an answer pending a scheduled meeting with the attorney. By letter dated February 23, 1982, the Regional Office again informed the attorney that an answer had not been filed, referred to the requirements of Section 102.54, and stated that if an answer was not received by March 2, 1982, the General Counsel would seek summary judgment on the backpay specification. No answer was filed.²

On March 15, 1982, the General Counsel filed a Motion for Summary Judgment and for transfer to the Board for decision. The Board then issued on March 22, 1982, an order transferring proceeding

to the Board and Notice To Show Cause why the General Counsel's motion should not be granted. The Respondent did not respond to the Notice To Show Cause.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Upon the entire record in this proceeding, the Board makes the following:

Ruling on the Motion for Summary Judgment

Section 102.54 of the Board's Rules and Regulations, Series 8, as amended, provides in pertinent part, as follows:

(a) *Filing and service of answer to specification.*—The respondent shall, within 15 days from the service of the specification, if any, file an answer thereto; an original and four copies shall be filed with the regional director issuing the specification, and a copy thereof shall immediately be served on any other respondent jointly liable.

* * * * *

(c) *Effect of failure to answer or to plead specifically and in detail to the specification.*—If the respondent fails to file any answer to the specification within the time prescribed by this section, the Board may, either with or without taking evidence in support of the allegations of the specification and without notice to the respondent, find the specification to be true and enter such order as may be appropriate. If the respondent files an answer to the specification but fails to deny any allegation of the specification in the manner required by subsection (b) of this section, and the failure so to deny is not adequately explained, such allegation shall be deemed to be admitted to be true, and may be so found by the Board without the taking of evidence supporting such allegation, and the respondent shall be precluded from introducing any evidence controverting said allegation.

The backpay specification and the Regional Office's letter of February 23, 1982, informed the Respondent of the provisions of Section 102.54, yet the Respondent filed no answer. It also filed no response to the Board's Notice To Show Cause. Therefore, pursuant to Section 102.54, the allegations of the backpay specification are deemed to be admitted to be true and are so found by the Board without taking evidence in support of the allega-

¹ 248 NLRB 198.

² By letter dated February 25, 1982, the attorney withdrew his appearance as counsel of record for the Respondent in this proceeding.

tions, and the Motion for Summary Judgment is granted.

Accordingly, on the basis of the allegations of the backpay specification herein found to be true, the Board finds the facts as set forth therein, concludes that the amounts specified therein are due, and orders the Respondent to make such payments.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, B. N. Beard Company, Derby and Seymour, Connecticut, its officers, agents, successors, and assigns, shall make the payments set forth in the backpay specification of June 30, 1981.